

MATTHEW J. GLUCK (221571)
CRAIG C. DANIEL (212588)
GLUCK DANIEL ATKINSON LLP
201 Mission Street, Suite 1330
San Francisco, CA 94105
Telephone 415-510-2114
Facsimile 415-510-2208
Email litigation@gluckdaniel.com

Attorneys for Defendant ROBERT J. SIGNORELLI

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FREMONT BANK, a California state-
chartered bank,

Plaintiff,

v.

ROBERT J. SIGNORELLI, individually and
as Trustee of the SIGNORELLI FAMILY
LIVING TRUST, dated April 8, 1994,
amended February 28, 2001, November 22,
2005, and January 5, 2015; KATHRYN R.
SIGNORELLI, Trustee of the SIGNORELLI
FAMILY LIVING TRUST April 8, 1994,
amended February 28, 2001, November 22,
2005, and January 5, 2015; and SIGNORELLI
FAMILY, L.P., a Texas limited partnership,

Defendants.

Case No. 18-cv-04808-HSG

**MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
MOTION FOR AN ASSIGNMENT ORDER
AND AN ORDER RESTRAINING
JUDGMENT DEBTOR ROBERT
SIGNORELLI**

1 Defendants ROBERT J. SIGNORELLI and KATHRYN R. SIGNORELLI hereby submit
2 this memorandum of points and authorities in opposition to the motion of Fremont Bank for an
3 order (1) directing Robert Signorelli to assign to Fremont Bank his right to any distributions,
4 dividends, and payments arising from his ownership of stock in FirstSun Capital Bankcorp held in
5 his Royal Bank of Canada IRA (account ending in -2226) (the “FirstSun IRA Funds”) (the
6 “Assignment Order”) and (2) restraining Mr. Signorelli from transferring his right to payment to a
7 third party, or from encumbering, assigning, disposing of, or spending the proceeds from the stock,
8 or otherwise hindering Fremont Bank’s right to payment (the “Restraining Order”).

9 ARGUMENT

10 **I. Mr. Signorelli’s IRA assets are exempt from charging.**

11 Property is exempt from collection “to the extent necessary for the support of the judgment
12 debtor and the spouse and dependents of the judgment debtor.” Cal. Civ. Proc. Code § 704.225.

13 The proposed Orders would leave the Signorellis without sufficient income to support themselves.

14 To determine what is “necessary for support” of a judgment debtor’s family, courts
15 consider all income available to the judgment debtor and his family. *See* Cal. Code Civ. Proc. §
16 703.115 (“[T]he court shall take into account all property of the judgment debtor and, to the extent
17 the judgment debtor has a spouse and dependents or family, all property of such spouse and
18 dependents or family, including community property and separate property of the spouse, whether
19 or not such property is subject to enforcement of the money judgment.”). That income is
20 compared to expenses provided by the debtor in a financial statement. *See Construction Laborers*
21 *Trust Funds for S. Cal. Admin. Co. v. Dominguez*, 2017 WL 5633031, at *9 (C.D. Cal. Nov. 21,
22 2017). Courts should ensure that the judgment debtor “retain[s] enough money to maintain a basic
23 standard of living, so that the debtor may have a fair chance to remain a productive member of the
24 community.” *Barnhill v. Robert Saunders & Co.*, 177 Cal. Rptr. 803, 806 (Ct. App. 1981).

25 As described in the accompanying Declaration of Robert J. Signorelli (“Signorelli
26 Declaration”), aside from the interests Fremont Bank seeks to charge, the Signorellis have a
27 combined annual income of \$65,280 and nondiscretionary expenses of \$164,520, resulting in an
28 annual shortfall of \$99,240. (Signorelli Dec. ¶¶ 6, 7.)

1 The Signorellis supplement their income with investment distributions that roughly average
2 \$200,000 per year. (Signorelli Dec. ¶ 9.) Because they cannot count on that income, the
3 Signorellis sometimes must supplement with distributions from their IRA. Under California law,
4 this Court should reject Fremont Bank's Motion.

5 Dated: January 23, 2023

GLUCK DANIEL ATKINSON LLP

6 */Craig C. Daniel/*

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8 Craig C. Daniel
9 Attorneys for Defendant ROBERT J.
SIGNORELLI